

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENNIS MICHAEL SALERNO,

Petitioner,

Case No. 1:05-cv-344

v.

Honorable Richard Alan Enslen

STATE OF MICHIGAN,

Respondent.

ORDER

This matter is before the Court to address Petitioner Dennis Michael Salerno's Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b) of the Final Order entered on July 27, 2007. Oral argument is unnecessary in light of the briefing.

This Motion fails to specify a subsection of Rule 60(b) under which relief is sought. Notwithstanding, the circumstances which provide the basis for the relief sought are the alleged difficulties Petitioner experienced in researching Michigan law while housed in prison facilities in the State of Ohio. Petitioner claims that these circumstances warrant consideration of various claims he asserted by motion in November 2006 and thereafter. These circumstances were previously considered by the Court in its Opinion and Order of May 13, 2007, which denied Petitioner's Motion to amend his habeas petition as untimely and futile. (*See* Op. & O., Dkt. No. 42, at 4-8.) Petitioner's renewal of that Motion under Rule 60(b) does not warrant relief. The earlier ruling was consistent with federal precedent including *Mayle v. Felix*, 545 U.S. 644, 664 (2005). The most pertinent subsection of Rule 60(b), subsection (b)(6) authorizes relief only in exceptional circumstances. *See Hopper v. Euclid Manor Nursing Home, Inc.*, 867 F.2d 291, 294 (6th Cir. 1989); *McDowell v.*

Dynamics Corp. of America, 931 F.2d 380, 383 (6th Cir. 1991). The Court does not find there to be such exceptional circumstances here, especially since no showing of merit has been made as to the grounds which Petitioner again wishes to assert.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion for Relief from Judgment (Dkt. No. 67) is **DENIED**.

DATED in Kalamazoo, MI:
September 12, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE